

**REMARKS**

The present Amendment is in response to the Final Official Action mailed January 11, 2007. As was discussed with the Examiner in a telephone discussion of April 5, 2007 (discussed more fully below), the present Amendment is being submitted in conjunction with a Request for Continued Examination. Claims 1, 14, and 32 have been amended. Claims 2, 3, 12, and 15-31 have been previously cancelled. Thus, claims 1, 4-11, 13, 14, and 32-40 are currently pending in the present application. Applicant sets forth remarks relating to the rejections set forth in the Action, the April 5<sup>th</sup> discussion with the Examiner, and the amendments to the currently pending claims below.

As an initial matter, Applicant respectfully thanks the Examiner for conducting the telephone discussion of April 5, 2007 with Applicant's undersigned counsel. In that discussion, the rejections of claims 1, 4-10, and 32-38 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,004,352 to Buni ("Buni") were discussed in detail. Applicant's counsel initially pointed out the differences between the present invention and the invention disclosed in Buni, especially the fact that Buni teaches a tibial platform as opposed to the trial augment for use with a femoral trial component of the present invention. Specifically, Applicant's counsel pointed out that Buni teaches a tibial platform having a guide rib 6 which is useful in properly aligning the tibial platform during a total knee surgical procedure. On the other hand, the present invention is an augment having a substantially flat surface for contacting an already cut and similarly flat surface of the distal portion of the femur. Clearly the aims of the present invention and Buni are very different.

Applicant's undersigned counsel suggested that the further limitation of the augment including a substantially flat

bone facing surface be added to the claims. The Examiner agreed with this difference from the Buni reference and also suggested that more specific structure detailing the femoral trial component and its cooperation with the augment of the present invention also be added to the claims. In accordance with these suggestions, Applicant has amended independent claims 1 and 32 accordingly.

Independent claims 1 and 32 now include a detailed recitation of the trial femoral component with which the augment of the present invention is used. These claims now require that the femoral trial have a bone facing cavity which faces in a direction opposite to an articular surface of the component. The augment is placed in this bone facing cavity so that its substantially flat bone fixing surface (now also included in the claims) ultimately faces a cut portion of the distal femur. This is far different from that which is taught in Buni where any flat surfaces located on the tibial platform are not designed for engagement with the bone. In addition, the guide rib 6 of Buni does not include a substantially flat surface provided for a similar purpose as the one of the present invention. Therefore, Applicant respectfully requests that the rejections in light of the Buni reference be removed.

In addition, Applicant notes that a minor amendment of dependent claim 14 has also been made in the present application. Such claim now properly refers to dependent claim 13, as opposed to previously cancelled claim 12.

In light of all of the above, Applicant respectfully requests allowance of each and every one of the currently pending claims in the present case. While the Examiner has also set forth obviousness rejections of claims 11, 13, 14, 39, and 40 in view of Buni, Applicant notes that a discussion relating to such rejected claims is not warranted given that the respective independent claims from which they depend now

constitute allowable subject matter. As such, allowance of each and every one of the currently pending claims is respectfully requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

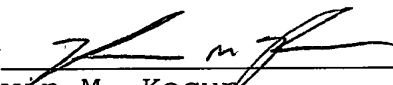
If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: April 11, 2007

Respectfully submitted,

By

  
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